THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.14045 OF 1999

BETWEEN:

M/S.Mukunda Auto Finance, rep. by its Managing Partner C.S.Mahendra Kumar

…Petitioner

vs.

The Deputy Commissioner of Prohibition and Excise, Warangal and another.

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 14045 OF 1999

ORAL ORDER

The petitioner assails the 1st respondent's order bearing reference No.Cr.No.1825/96/P&E/B5 dated.12-03-1997 as illegal, arbitrary and without jurisdiction. By the said proceedings the 1st respondent exercising regulatory and adjudicatory power under the A.P.Prohibition Act,1995(for short "the Act") found that a lorry bearing No.KA-16-331 was transporting, on 23-09-1996, 335 cartoons of IML, 131 bottles of whisky in violation of the provisions of Sec.8(b) of the Act and directed the confiscation of the vehicle under Sec.12 of the Act. This order was passed in purported exercise of powers of the 1st respondent under Sec.13 of the Act.

The petitioner asserts that it is the owner of the lorry; that the lorry was given to the 3rd respondent under a hire purchase agreement dated.01-06-1996; that the 3rd respondent had defaulted in the payment of installment amounts due to the petitioner; that despite best efforts the petitioner failed to locate the vehicle and on enquiry learnt that the vehicle was seized by the 2nd respondent and the order of confiscation was passed by the 1st respondent. Thereafter the

petitioner got issued a legal notice to the 1st respondent claiming ownership of the vehicle; that the 3rd respondent was a mere hirer and that the confiscation proceedings were behind his back and therefore illegal. In reply to the petitioner's notice, the 1st respondent is stated to have responded stating that in the confiscation proceedings, notice was issued to the registered owner of the vehicle (3rd respondent) and that the confiscation order was passed after due enquiry.

The writ petition is filed asserting the same pleas as have found disfavor with the 1st respondent. Admittedly the petitioner was informed by the 1st respondent, in response to the lawyer's notice issued on his behalf that the 1st respondent had issued notices in the confiscation proceedings to the 3rd respondent-the registered owner of the vehicle. In this writ petition the petitioner neither asserts nor establishes that the 3rd respondent was not the registered owner of the vehicle and that the petitioner is the registered owner of the vehicle. There is also neither an assertion or proof that there was any endorsement in the registration certificate of the vehicle as to the ownership of the petitioner over the vehicle notwithstanding its formal registration in favour of the 3rd respondent. It is not even asserted on behalf of the petitioner that there was a registered and publicly verified hire purchase agreement between the petitioner. The 1st respondent, a regulatory and quasi judicial authority is obligated neither on principle or authority to recognize every private agreement entered into between

the parties. It is also not practically possible that an adjudicating or regulatory authority will have a premonition that some body would have entered into private agreement and that notices should be issued to the holder of any rights under such private agreement. It is asserted on behalf of the 1st respondent that notices were issued to the 3rd respondent as the registered owner. The fact that the 3rd respondent is registered owner is not disputed by the petitioner.

In the aforesaid factual matrix the petitioner is seen to have no *locus standi* to question the order of confiscation. The petitioner will have to pursue his remedies against the 3rd respondent. No infirmity is discernable in the order of the 1st respondent on the ground that it was passed without notice and opportunity to the petitioner. It is also requires to be noticed that the writ petition itself has been dismissed as against the 3rd respondent for default of deposit of batta by the order of this Court dated.7-3-2003.

For the aforesaid reasons, there are no merits. The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM,J

12TH JULY 2006
*TSNR